IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CWP No.10783 of 2006
Date of Decision: 8.3.2007

Suresh Kumar

Petitioner

versus

The Financial Commissioner, Haryana and others

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MRS. JUSTICE NIRMAL YADAV

Present: Shri Dalel Singh, Advocate for the petitioner
Shri Harish Rathee, Sr.DAG Haryana

Shri Ranjit Saini, Advocate for respondent No.3

Jasbir Singh, J. (Oral)

This writ petition has been filed with a prayer to issue a writ of certiorari to quash order dated 11.1.2005 (Annexure P/1), vide which, respondent No.3 was appointed as Lambardar of village Devidaspura, District Kurukshetra. Further prayer is to quash order dated 28.11.2005 (Annexure P/4), vide which, revision petition, filed by respondent No.3 was allowed by the Financial Commissioner.

It is apparent from the records that on accrual of vacancy, applications were invited to appoint Lambardar in the village, referred to above. The petitioner and respondent No.3 were the contesting candidates. The Collector, after looking into recommendations made by the subordinate revenue authorities, appointed respondent No.3 as a Lambardar, vide order Annexure P/1, by observing thus:-

"I have gone through the file and written arguments submitted by the learned counsels of the parties. From the

record it is found that Sh.Suresh Pal son of Sh.Ajmer Singh, whose name has been recommended by all the Revenue officials of the circle, Naib Tehsildar, Thanesar and Sub-Divisional Officer, is the right candidate for this post. This candidate has passed Class 10th examination, he is young man and according to the Naksha Lambardar, he owns property of worth Rs.5.00 lacs. He also does co-operation to the Administration in the family planning and other social works. This candidate has also got the certificate of the National Industrial Training from the Ministry of Labour, Department of National Industrial Training Centre. The allegation has been levelled against this candidates that he is having a B.P.L. Ration Card. From the record it found that he was having this ration card during the year 2003 i.e. he was having this ration card before submission of the application for this post. From the record it is found that Sh.Raghu Nath was the Lambardar of the village and Sh.Bhura Ram was his Sarbrah Lamberdar. They both have died. Therefore, Sh.Suresh Pal son of Sh.Ajmer Singh, resident of village Devidaspura has been appointed as Lambardar of the village in place of Late Sh.Raghu Nath Lambardar."

The petitioner went in appeal, which was allowed by the Commissioner, vide order dated 14.6.2005, order passed by the Collector was set aside and the matter was remitted to the Collector, to decide it afresh. The Commissioner, while passing aforesaid order, has noted the following facts:-

"3.The counsel for the appellants during his arguments stated that the order of the lower court is against rules and facts of the present case. The Lower Court did not discuss the qualifications of other candidates except the respondent. His candidate is 7th pass, young man and owning 7 acres of land. The appellant had deposited Rs.4.00 lacs in his bank account. The counsel for the appellant further stated that the financial condition of his candidates is better than the respondent. Apart from it, counsel for the appellant stated that the candidates which has been appointed by the lower court as Lamberdar of the village is not eligible to be appointed as Lambardar as he has been taking the benefit of the yellow card of the below poverty line. Such person, who cheat the Govt., how he can be the well wisher of the public. At the end he stated that the order of the Collector is illegal which may be set aside and the appeal filed by the Appellant be accepted.

4.The counsel for the appellant, Sh.Karam Singh also stated that the order passed by the collector is illegal. The counsel of the appellant stated that his candidate is VIII passed and has worked as Sarbrah Lambardar for about 28 years. He has the full experience of the job of Lambardar. His candidate is having 5 acres of land, a plot and having his own house to live in. On the other hand, the respondent is not having any land in his name. He is a cheater because as per the Naksha Lambardari, a property worth Rs.6.00 lacs has been shown in the name of Suresh Pal, candidate, whereas he while cheating the Govt. has got prepared the B.P.L. Ration card and has been taking the benefit. Like this, Suresh Pal, candidate has placed on record the certificate regarding sterilization, is un-dated

and he has not been shown as motivator. Therefore, Suresh Pal is a cheater. The person who can cheat the Govt. before even becoming Lambardar, how he can think about the welfare of the public after becoming the Lambardar. The counsel for the appellant further stated that his candidate, Sh.Karam Singh is a respectable person, has been doing the job of Sarbrah Lambardar for more than 20 yers. His candidate bears good moral character. As per the Naksha Lambardari, his is the owner of the property worth Rs.8.00 lacs. At the end he stated that the appeal of the appellant be accepted. In reply, the counsel of the respondent stated that his candidate is the best candidate amongst all other candidates as his name has been recommended by all the revenue officials. He is 10^{h} pass, owned property of worth Rs.6.00 lacs. He does cooperation of the Govt. in family planning and other social works. So far as the allegation made against him that he has got prepared the B.P.L. Ration Card, the said ration card was in the year 2003. Thereafter, this ration card is not in his possession. In the end he has stated that the order of the Collector is correct, which may be maintained.

5.I have heard the arguments of learned counsels for both the parties carefully and examined the record carefully. In my view, the person who has been appointed as Lambardar by the Collector, Kurukshetra is not eligible for this post as Sh.Suresh Pal seems to be a liar and a person of cheating nature. Such type of person should have not been appointed as Lambardar. In these circumstances, the order under appeal passed by the Collector is set aside and I remand this case to the Collector, Kurukshetra with the directions that he should appoint any to other eligible candidate for the post of

Lambardar on the basis of the qualifications after hearing both the parties."

Respondent No.3 went in revision, which was allowed and order passed by the Commissioner was set aside. Hence, this writ petition.

It is well established by now that the choice made by the Collector, in appointing a Lamberdar, is not supposed to be interfered unless the same is perverse and bad in law. In the present case, we feel that while appointing respondent No.3 as Lambardar of the village, the Collector has not appreciated that he is a person, who had gone to the extent of getting *Below Poverty Line* certificate despite having in his possession huge amount of money and landed property in the shape of houses etc. Otherwise on merits also, it appears that one candidate, namely, Karam Singh was a better candidate in view of his qualifications, as noted by the Commissioner vide order dated 14.6.2005.

In view of facts mentioned above, we feel that the order passed by the Financial Commissioner lacks reasoning and deserves to be set aside. This writ petition is allowed, order passed by the Financial Commissioner is set aside and that of the Commissioner is upheld. The Collector will now initiate process afresh, as ordered by the Commissioner, vide order dated 14.6.2005.

(Jasbir Singh)
Judge

March 08, 2007 **(Nirmal Yadav)**
gk **Judge**